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Before the
FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of)
)
Amendment of Sec. 73.202(b)) MM Docket No. 94-61
Table of Allotments,)
FM Broadcast Stations)
(Garberville and Hydesville,)
California))

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To: Acting Chief,
Allocations Branch, Mass Media Bureau

OPPOSITION TO AMENDMENT BY REDWOOD COMMUNITY RADIO, INC.

Redwood Community Radio, Inc., licensee of noncommercial, educational broadcast station KMUD (FM), Garberville, California ("Redwood"), by its counsel, here submits its Opposition to the proposed amendment of the FM Table of Allotments, replacing Channel 279C1 at Garberville with Channel 279C1 at Hydesville, California. The Notice of Proposed Rule Making was released on July 5, 1994, DA 94-611. In opposition, the following is submitted:

1. The Proposed Channel Move Does Not Satisfy the Commission's Allotment Criteria.

The NPRM indicates that Brett E. Miller, the Petitioner, has not yet provided any information on "the total reception service that is now available within the gain and loss areas." para. 4. As more fully detailed below, Hydesville, the Census Designated Place, is part of the south suburban area to Eureka. Eureka is served by at least eight radio stations, plus two others licensed to Arcata, and another in Fortuna. Redwood will be surprised if

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the proposed facility offers any service whatsoever, to areas not served by at least five aural services already.¹

Garberville and Redway are an isolated pocket, served only by KBEY (FM).² Consequently, the proposal would result in the extinguishment of significant predicted second aural service to Garberville and to the surrounding area. As noted by the NPRM, this loss is a negative factor, weighing against the proposal, irrespective of the estimated gains and losses.

The allotment priorities for FM are (1) first aural service; (2) second aural service; (3) first local service; and (4) other public interest matters, Memorandum Opinion and Order (Recon.) in MM Docket 88-526, 5 FCC Rcd 7095 at fn. 4 (1990). Numbers (2) and (3) are given equal weight. Here, the loss of second aural service negates any gain from first local service to Hydesville; and weighed as a separate public interest factor, it necessitates the rejection of the proposal.

3. Description of the Geographic Area; Hydesville Not a Community.

Humboldt is a rural, Coastal county, having a population of

¹ The proposed site is a few miles inland from a Coastal promontory, where it appears the Pacific Ocean lies at due South and due North, and at every azimuth West. The alleged increase in square kilometer area, from 15,961, to 16,784, undoubtedly disappears when the area over water is subtracted.

² For purposes of analyzing a proposal such as this, noncommercial stations such as KMUD are not considered.

119,188.³ The county is mountainous, and sparsely settled. Nearly all population is situated on the Coast, a solid majority at the harbor settlement and trading center of Eureka (census division population, 45,834; city population, 27,025) and Arcata (census division population, 20,687; city population, 15,197).

Hydesville, the location proposed for this allotment, is a census designated place (not an incorporated municipality) of 1,131, adjacent to Rohnerville Airport, and largely indistinguishable from its larger neighbors in the Census' Fortuna Division (14,316), notably Rohnerville and Fortuna City (8,788). In turn, Fortuna, Rohnerville and Hydesville all stand just off the major highway, U.S. 101, and approximately 20 miles South of Eureka, for which they house many commuters. From the NPRM it cannot be determined whether the Petitioner has adduced any evidence that Hydesville is distinct from any of the adjoining "communities," 47 U.S.C. §307(b), in anything but the Census Bureau's decision to account for the residential population there in a separate listing.

The remainder of Humboldt County population follows U.S. 101 South of Eureka, as it turns inland at Fortuna/Rohnerville. The entire stretch of nearly fifty miles from Rio Dell to Garberville has a population of only 12,168 (Census Garberville division). Approximately 9,000 live at the Southern end of the County, on the

³ Data are from 1990 Census of Population and Housing, Summary Population and Housing Characteristics, 1990-CPH-1-6, California, Table 1.

South Fork of the Eel River, in and around the twin cities of Garberville and Redway, and nowhere within forty miles or more of any substantial settlement.

The proposal would take a second service from an isolated rural area, and move it to a near suburb of the dominant trading center in the region. This is precisely what the Commission has pledged it will not allow, under the new allotment policies:

Consistent with precedent, we do not intend to apply the first local service preference of our allotment criteria blindly. We recognize that an inflexible application of that preference, without further analysis, could consistently result in our finding that a reallocation leading to first local service for a suburb of a much larger adjacent metropolitan center justifies removing a local service from a more remote community. We wish to dispel any concern that our new rule would lead to such a result.

Recon., supra., at para. 13.

3. Alleged Site Clearance Problem Not Demonstrated.

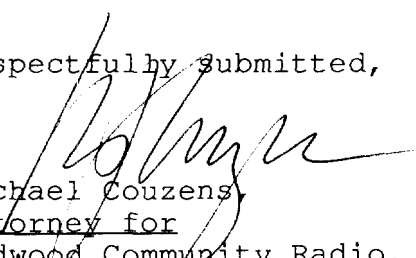
The petitioner's currently authorized transmitter location is the same as Redwood's, and obviously Redwood has considerable familiarity with the site. The NPRM states (para. 3) that RF interference to forestry facilities "in the past" has been a source of controversy. Redwood agrees with this statement, but the construction by KBEY (FM) of a new tower at the site appears to have resolved the matter completely. Redwood respectfully disputes that there is any lingering problem with RF radiation at the site, and would ask that the Commission not assume so, in the absence of probative evidence. Moreover, so far as Redwood is aware, the petitioner has not taken any affirmative steps toward placing its facility into operation. Petitioner may even be

unaware that this former problem no longer serves as any impediment to the prompt construction of KWEO (FM) as authorized. Redwood also is concerned that the stated coordinates of petitioner, as proposed to serve Hydesville, are "rounded off" as 40-23-00 N. Lat. and 124-11-00 W. Long. (NPRM, fn. 1). Redwood questions whether such a site has been positively identified, referenced to the ground location, analyzed for existing broadcast facilities, and verified as available, with the landowner. Or is the site, at this juncture, a purely theoretical construct? This question needs to be answered, before the Commission reposes any great weight in the comparative analysis of population, area and service gains and losses.

4. Conclusion.

For the reasons stated, Redwood Community Radio, Inc., urges that the Commission encourage KWEO (FM) to stay put, and promptly to construct a badly needed, new commercial station to serve Garberville and the surrounding area.

Respectfully submitted,


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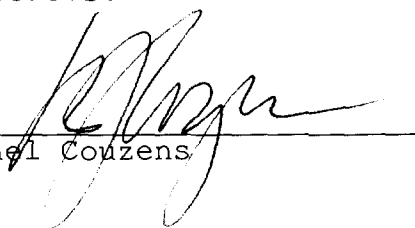
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served by First Class Mail, postage pre-paid, on August 26, 1994, to the following:

Brett E. Miller
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John A. Karousos
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The foregoing is sworn to, under the penalties for perjury provided in the laws of the United States.



Michael Couzens